IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL NO.188 OF 2005

Mr.Sat Prakash Goyal ..Appellant.

V/s.

The Wealth Tax Officer ..Respondent.

Mr.Vipul B.Joshi with Mr.Sameer G.Dalal for appellant.

Mr.A.K.Kotangale for respondent.

CORAM : H.L.GOKHALE AND J.P.DEVADHAR, JJ.

DATED : 18TH NOVEMBER, 2005.

P.C. :-

1. Heard Mr.Joshi for the appellant and Mr.Kotangale for the respondent. Appellant is challenging the order dated 30th August, 2004 passed by the Income Tax Appellate Tribunal in Wealth Tax Appeal No.137 of 2004 for the assessment year 1996-1997. There was one round of hearing earlier and the matter had been remanded to the assessing officer. On remand the order passed was challenged in this impugned proceedings. The submissions of Mr.Joshi is that certain assets which were permissible to be excluded under section 2(ea) of the Wealth Tax Act, 1957 were not considered by the assessing officer and that mistake continued in the order passed by the Appellate Tribunal. He has drawn our attention to the grounds of appeal wherein this

ground is specifically raised in para 2 of the appeal memo. The Tribunal appears to have relied upon the earlier order where this question was not decided at all. What was under consideration earlier was the description under section 4(1)(b) of this Act and as to what would be the application of this section as far as this assessment of the appellant for the purpose of wealth is concerned. The submission in respect of section 2 (2ea) was not under consideration.

2. Mr.Kotangale appearing for respondent does not dispute this particular factual position. In this view of the matter, we set aside the impugned order and restore the proceedings on the file of the Appellate Tribunal where the Tribunal will be expected to decide the question of exclusion raised by the appellant under section 2 (ea) of the Wealth Tax Act, 1957.

3. The other issue involved in the matter is in respect of the valuation of the jewellery. It will be open to the appellant to raise this issue when the matter is heard by the original authority on remand.

3. Appeal allowed in these terms with no order as to costs.

(H.L.GOKHALE, J.)

(J.P.DEVADHAR, J.)